

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/01638
APPLICATION TYPE:	Lawful development: Existing use
SITE ADDRESS:	Pound Hall Farm, Norley Lane, Studley, Calne, SN11 9LN
DEVELOPMENT DESCRIPTION:	Certificate of Lawfulness (Existing Use) to regularize the use of The Tiny Barn as a self-contained residential holiday-let unit
RECOMMENDATION:	Approve

SITE DESCRIPTION AND PROPOSAL

This application is for a Certificate of Lawfulness for an Existing Use or Development (CLUED) under Section 191 of the Town and Country Planning Act 1990 (as amended). The applicant seeks to establish the lawfulness of the use of 'The Stone Barn' as a self-contained tourist let, which has been in operation at the site since July 2021. The application relates to a change of use from ancillary accommodation in the form of a granny annexe to a self-contained holiday let.

RELEVANT LEGISLATION AND CONSIDERATIONS

The statutory framework governing Certificates of Lawfulness for Existing Use or Development (CLUED) is primarily set out in Section 191(2) of the Town and Country Planning Act 1990 (as amended). This section establishes that "lawful development" refers to development against which no enforcement action may be taken and where no enforcement notice is in force, or development for which planning permission is not required.

Section 191(4) of the Town and Country Planning Act 1990 (as amended) further stipulates that a Local Planning Authority (LPA) shall issue a Certificate of Lawfulness upon request, provided that, on the balance of probabilities, the LPA is satisfied that the existing development or use described in the application is lawful. The time limits for taking enforcement action are set out in s171B of the Act.

The Planning Practice Guidance (PPG) on Lawful development certificates clarifies that the burden of proof lies with the applicant. It is the applicant's responsibility to provide sufficiently clear, precise, and unambiguous evidence to demonstrate the lawfulness of the existing development or use.

In considering whether the use or development has become immune from enforcement action, the test for granting a Certificate of Lawfulness is whether, on the balance of probabilities:

- a) the works were substantially completed, or,
- b) the use has been continuous for the required time period without interruption.

The applicant must prove that the use or development has occurred for the necessary period. A continuous use must be demonstrated without significant interruption.

It is important to note that when determining a CLUED application, the LPA must focus solely on whether, based on the facts and applicable planning law, the specific use or development is lawful. Planning merits or considerations relating to the quality or suitability of the development are not relevant.

REPRESENTATIONS

There is no legal obligation to consult third parties for this type of application, including Town/Parish Councils or neighbouring properties. However, the PPG recognises that it may be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application.

Derry Hill and Studley Parish Council: No objection

'It is noted that there have been no complaints noted in relation to this development.'

Public Protection: No objection

Highways: No objection

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
N/13/01560/FUL - Full planning permission Decision - Approve with Conditions Date: 23/7/2013 – Demolition of Existing Annexe & Construction of Garage with Ancillary Accommodation Not implemented. (Tiny Barn)
N/12/03242/FUL - Full planning permission Decision - Approve with Conditions Date: 9/11/2012 – Alterations and Extension to Existing Workshop/Store to Form Granny Annexe Implemented (Stone Barn)
PL/2026/01637 - Lawful development: Existing use – Certificate of Lawfulness (Existing Use) to regularize the use of The Stone Barn as a self-contained residential holiday-let unit Under consideration (Stone Barn).

ASSESSMENT

When assessing an application for a CLUED, the following key tests are applied to determine *whether the development or use is lawful*:

Time Limits for immunity for enforcement action

4 years applies for:

- Operational development that was substantially completed **before** 25 April 2024
- Change of use of a building to a dwelling where the breach occurred **before** 25 April 2024

Continuous Use:

- For a change of use, the use must have been continuous for the required time period without interruption e.g., periods of inactivity or abandonment, temporary changes in the use of the property (e.g., a commercial premises used for residential purposes), actions such as enforcement notices or formal closures. This ensures that the use has been established over a sustained period of time.

The applicant must demonstrate with unambiguous evidence, on the balance of probabilities, that the use or development is lawful by providing sufficient and clear evidence. Planning merits are not considered during this process—only the lawfulness of the existing use or development.

Evidence Submitted by the Applicant

The applicant has submitted the following evidence to support the application:

- Statutory declaration, Mark Edward Saint dated 10.03.26
- Planning statement
- Site location plan
- Photo sheet
- Construction evidence
- VOA rating evidence
- Airbnb letting logs evidence

Assessment

The statement submitted by the applicant clearly sets out the timeline for the past 4 years.

From acquisition The Tiny Barn was used by the applicant as workshop / store / gym ancillary to Pound Hall Farm.

In late 2019 / early 2020, The Tiny Barn underwent an internal refurbishment to enable use as a self-contained residential holiday-let unit. At the time the applicants were not aware that the proposal constituted a material change of use for which planning permission was required.

Upon commencing the holiday rental business, the applicants contacted Wiltshire Council regarding Council Tax/Business Rates and were advised to make an application to VOA.

VOA assessed the property's rateable value with an effective date of 1 February 2020 – refer to the following link:

Summary valuation - Valuation Office Agency - GOV.UK

The Tiny Barn was first used as a short-stay holiday-let was on 2nd February 2020 and has subsequently been continuously let on this basis through Airbnb – refer to the following link:

https://www.airbnb.co.uk/rooms/38910385?guests=1&adults=1&s=67&unique_share_id=9df0e2ea-5cd7-48ce-a56c-66f78fa5a837

The listing includes evidence of almost 500 guest reviews since February 2020. Whilst some guests are business travellers, most guests are leisure travellers predominantly from the UK and the application property has a comparatively high occupancy rate.

Having reviewed the Airbnb details and those from the VOA it is considered that the evidence submitted by the applicant demonstrates, on the balance of probabilities, that the development (including any associated building works) was substantially completed at least 4 years prior to the application date, and does not contravene any planning conditions or restrictions. The development is therefore lawful under the provisions of the Town and Country Planning Act 1990 (as amended). The application for a Certificate of Lawfulness for an Existing Development is recommended for approval.

Specifically, the evidence submitted confirms that the Tiny Barn has been utilised as a holiday let for a period in excess of 4 years and that this use has been uninterrupted. There are no apparent gaps in the evidence or contradictions that would cast doubt on the lawfulness of the development.

On the balance of probability, sufficient evidence has been provided to demonstrate that the use identified on the site plan has been used continuously for a period in excess of 4 years at the point of submitting the application. As there is no clear or unambiguous evidence to the contrary submitted to or readily available to the Council, and as no formal enforcement action has been taken by the Council, it is recommended that on the balance of probability, a certificate of lawfulness be issued for the use of the building.

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Existing Use be granted for the following use:

Use of The Tiny Barn as a self-contained residential holiday-let unit